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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,998	01/07/2005	Alain Guillard	Serie 5933	9481
Air Liquide Intellectual Property Department 2700 Post Oak Blvd Suite 1800 Houston, TX 77056			EXAMINER SINES, BRIAN J	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 07/10/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/520,998

**Applicant(s)**

GUILLARD ET AL.

**Examiner**

Brian J. Sines

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-38 is/are pending in the application.  
4a) Of the above claim(s) 36-38 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 25-35 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-855)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date 1/7/2005

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of group I comprising claims 25 – 35 in the reply filed on 4/14/2008 is acknowledged. Claims 36 – 38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 25 – 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, the scope of the claimed method is broader than what is enabled by the specification. For example, the specification is not enabled for all gas treatment processes, but involves specifically an air separation process using a gas treatment unit comprising an air separation unit. Therefore, the air separation unit can be considered a critical feature of the claimed method. A feature that is taught as critical in the specification should be recited in the claims (see MPEP § 2164.08c).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25 – 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 25 – 35 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are:

Regarding claim 1, it is unclear as to how the fluid is produced to a specific characteristic, such as purity, flow rate, temperature, pressure, with in each time period with respect to the cost of electricity and power consumption. Furthermore, the method of claim 1 does not positively recite an air separation unit. The gas treatment process as indicated by the specification involves specifically an air separation process using a gas treatment unit comprising an air separation unit. Therefore, the air separation unit can be considered a critical feature of the claimed method. A feature that is taught as critical in the specification should be recited in the claims (see MPEP § 2164.08c).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional cited prior art teaches gas processing methods.

Any inquiry concerning this communication or earlier communications from the  
5 examiner should be directed to Brian J. Sines whose telephone number is (571) 272-1263. The  
examiner can normally be reached on Monday - Friday (11 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the  
organization where this application or proceeding is assigned is 571-273-8300.

10 Information regarding the status of an application may be obtained from the Patent  
Application Information Retrieval (PAIR) system. Status information for published applications  
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished  
applications is available through Private PAIR only. For more information about the PAIR  
system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR  
15 system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would  
like assistance from a USPTO Customer Service Representative or access to the automated  
information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian J. Sines  
Primary Examiner  
Art Unit 1797

20 /Brian J. Sines/  
Primary Examiner, Art Unit 1797